

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
Thursday, November 15, 2007**

Members Present:

Bill O'Brien, Acting Chairman
Jack Lessard
Vic Lessard
Bryan Provencal

Others Present

Kevin Schultz, Building Inspector

Chairman O'Brien called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the members of the Board.

Petition Session

Chairman O'Brien announced that Petition 61-07 has been withdrawn.

Chairman O'Brien announced that the applicant for Petition 60-07 has requested a continuance until next month.

60-07 The petition of Aaron Brown & Eric West for property located at 15 Keefe Avenue seeking relief from Articles 4.1, 4.1.1, 4.2 and 4.3 to subdivide the parcel to create a second lot for the purpose of constructing a duplex where relief is needed from certain dimensional requirements. This property is located at Map 157, Lot 7 in a G zone.

Moved by Mr. Jack Lessard, seconded by Mr. Vic Lessard, to continue Petition 60-07 to 12-20-07.

VOTE: 4-0-0. Motion passed.

56-07 The petition of David & Catherine Correa for property located at 24 Fuller Acres seeking relief from Articles 1.3 and 8.2.3 to enlarge decks on the first floor level for Unit 1. This expansion will conform to the zones required setbacks but cannot meet the multi family setbacks. This property is located at Map 265, Lot 60 in a BS zone.

Chairman O'Brien said there were only four Board members present and asked the petitioners if they wanted to proceed. The petitioners agreed to proceed.

The five criteria were read by the applicant as submitted in the application.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. Jack Lessard, to grant Petition 56-07.

Chairman O'Brien polled the Board on their acceptance of the five criteria. The Board was in agreement.

VOTE: 4-0-0. Motion passed.

57-07 The petition of Harold Smalley Jr. Trust through Richard Smalley for the property Located at 32 Boars Head Terrace seeking relief from Articles 4.1.1, 4.5.1, 4.5.2 And 4.5.3 to allow construction of a new dwelling with less than the required front, side and rear setbacks. This property is located at Map 267, Lot 19 in a RA zone.

Chairman O'Brien said there were only four Board members present and asked the petitioners if they wanted to proceed. The petitioners agreed to proceed.

The five criteria were read by the applicant as submitted in the application.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Chairman O'Brien asked why the external stairs, that the applicant stated are needed in case of fire, only go from the third floor to the second floor. Chairman O'Brien

suggested that they reconsider their design and run the stairs from the third floor balcony to the ground level along the north side of the house.

Moved by Mr. Vic Lessard, seconded by Mr. Jack Lessard, to grant Petition 57-07.

Chairman O'Brien polled the Board on their acceptance of the five criteria. The Board was in agreement.

VOTE: 4-0-0. Motion passed.

58-07 The petition of Aquarion Water Company of New Hampshire through Cellco Partnership dba Verizon Wireless for property off Exeter Road (Water Tank) seeking a Special Exception per Articles 16.2 and 3.20 for retrofitting existing structure, the water tank, that is greater than 80 feet. This property is located at Map 53, Lot 1 in a 1 zone.

Attorney Jessica Nylan and David Valez of Verizon Wireless came forward.

Chairman O'Brien said there were only four Board members present and the petitioners were entitled to five. He asked the petitioners if they wanted to proceed. The petitioners agreed to proceed.

Attorney Nylan explained that they were asking for a Special Exception. Mr. Valez said that he was the project manager for this site. Mr. Valez said this project is for the purpose of addressing cell phone coverage issues on Routes 101, 95 and 27. Attorney Nylan went through the criteria as presented in the application and said she felt the criteria had been met.

Questions from the Board

Chairman O'Brien said he was concerned with the fact that North Hampton would be covered more than Hampton with this addition when in the past North Hampton has turned down Verizon's request for a cell tower. He also expressed his concern with the pessimistic coverage diagrams presented for the towers that service Hampton. For example, the cell tower placed along Route 101 (tower 5-188) was advocated before this Board on the basis that it would completely cover Hampton Beach; however, the coverage diagram presented shows that it does not cover any part of the Beach.

Attorney Nylan said that they have mandates which must be met to maintain FCC licenses. One of these mandates is to try to build a complete network of coverage. Mr. Valez also responded that the coverage diagrams presented indicate exceptional service, Level 5 (95db) and that satisfactory service is obtained at Level 3 (75db).

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. Lessard said that it is important to not take something away from people that is really needed.

Mr. Valez said that the network designers have to provide sufficient coverage. As more users come onto the network, more interference is introduced thereby shrinking coverage. Therefore, they always put in the largest possible plots for coverage.

Chairman O'Brien requested that new coverage diagrams be submitted, for the record, for all cell sites located in the Town of Hampton (tower 5-129/130, tower 5-188, and the proposed water tower site) that indicate Level 5 (95db), Level 4 (85db), and Level 3 (75 db) coverage for each site.

Attorney Nylan and Mr. Valez both indicated that this would be provided for the record prior to appearing before the Planning Board.

Moved by Mr. Jack Lessard, seconded by Mr. Provencal, to grant Petition 58-07.

Chairman O'Brien polled the Board on their acceptance of the five criteria. The Board was in agreement.

VOTE: 4-0-0. Motion passed.

59-07 The petition of William & Marcia Kenny for property located at 15 Keefe Avenue Seeking relief from Equitable Waiver of Dimensional Requirement to retain a set of steps and mechanical room which vary from 1.5 to 2.9 feet from the rear property line where the Board (case #68-06) previously approved a 2.8 foot setback. This property is located at Map 290, Lot 85 in a RB zone.

Attorney Robert Casassa, of Casassa & Ryan, William Kenny and Marcia Kenny came forward.

Chairman O'Brien said there were only four Board members present and the petitioners were entitled to five. He asked the petitioners if they wanted to proceed. The petitioners agreed to proceed.

Attorney Casassa said that they were seeking an equitable waiver to maintain a set of steps and a mechanical room. This problem was discovered during construction. Litigation has ensued between the Kennys and the builder. The Kennys understand the 2.8 foot setback was previously approved by this Board, but now approximately 14 more inches are needed. Attorney Casassa went through the four criteria for an equitable waiver as presented in the application and said he felt the criteria had been met. He also said he had a letter from Linda Gallagher, an abutter, saying she approves of this. Ms. Gallagher had also written a supportive letter when the previous petition was presented.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no questions from the Audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. Vic Lessard, to approve Petition 59-07.

Chairman O'Brien polled the Board on their acceptance of the four criteria for an equitable waiver. The Board was in agreement.

VOTE: 4-0-0. Motion passed.

The Petition Session of the meeting was then closed.

Business Session

Seven sets of Minutes for prior meetings were reviewed and each was amended. The Amended Minutes cover the meetings of May 17, 2007; June 21, 2007; July 19, 2007; July 26, 2007; August 16, 2007; September 26, 2007; and October 18, 2007.

Moved by Mr. Provencal, seconded by Mr. Jack Lessard, to approve the seven sets of amended Minutes.

VOTE: 4-0-0. Motion passed.

Motion for Rehearing re Petition 46-07 – 2 Fifth Street

The Petition for Rehearing was discussed in detail by the Board.

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Moved by Mr. Jack Lessard, seconded by Mr. Vic Lessard, to deny Motion for Rehearing re Petition 46-07 – 2 Fifth Street

VOTE: 4-0-0. Motion passed.

Mr. Brian Hayes' letter was discussed in detail by the Board. The request to negotiate a prior petition that was disapproved by the Board was denied by vote **4-0-0**.

The Business Session was then closed.

Moved by Mr. Jack Lessard, seconded by Mr. Provencal, to adjourn the meeting.

VOTE: 4-0-0. Motion passed.

Respectfully submitted,

Joan Rice
Secretary